

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-342-GMS
	:	
NATIONAL ASSOCIATION OF LETTER	:	
CARRIERS BRANCH 1977,	:	
	:	
Defendant.	:	
BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-47-GMS
	:	
UNITED STATES POSTAL SERVICE,	:	
and NALC LOCAL 191,	:	
	:	
Defendant.	:	

**MOTION OF UNITED STATES POSTAL SERVICE
TO DISMISS OR IN THE ALTERNATIVE TO
COMPEL RULE 26(a) DISCLOSURES BY PLAINTIFF**

The United States Postal Service ("USPS"), through the undersigned, moves the Court to dismiss the Complaint as to it, and in support thereof avers as follows:

1. The captioned cases have been consolidated for purposes of discovery. D.I.-18.
2. Plaintiff has failed to serve Rule 26 discovery on any of the three defendants, and has failed to respond to discovery requests served upon him, as detailed in the Motion of Defendants National Association of Letter Carriers Branch 191 and Branch 1977 ["Union

Defendants"] to Dismiss Complaint for Failure to Prosecute or in the Alternative to Compel Discovery, and in the Memorandum of Law in support of that motion. D.I.-22, 23. The USPS adopts the reasoning and analysis set forth in the Union Defendants' Motion and Memorandum of Law, both of which are incorporated herein by reference.

3. In addition, the USPS notes that if the Plaintiff is unable to show a breach of duty by the Union Defendants, any claims he might have against the USPS are barred. *Hines v. Anchor Motor Freight, Inc.*, 424 U.S. 554, 570 - 571 (1976); *Vaca v. Sipes*, 386 U.S. 171, 186 (1967); *Weber v. Potter*, 338 F.Supp. 2d 600, 606 (E.D.Pa. 2004). See USPS' Memorandum of Law in Support of the instant motion.

4. The Court's Scheduling Order in this matter (D.I.-18) calls for summary judgment motions to be filed on or before November 30, 2005. The USPS also requests that the Scheduling Order be amended to vacate the date by which Summary Judgment motions are to be served and filed, until after the Court has an opportunity to rule on the Motions to Dismiss. A proposed form of Order granting that relief is attached hereto as Exhibit A.

WHEREFORE the USPS moves the Court to dismiss the Complaint as to it, or in the alternative to compel Rule 26(a) disclosures by the Plaintiff. A proposed form of Order granting that relief is attached hereto as Exhibit B.

Respectfully submitted,

COLM F. CONNOLLY
United States Attorney

By: /s/Patricia C. Hannigan
Patricia C. Hannigan
Assistant United States Attorney
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Dated: November 8, 2005

Exhibit A

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-342-GMS
	:	
NATIONAL ASSOCIATION OF LETTER	:	
CARRIERS BRANCH 1977,	:	
	:	
Defendant.	:	

BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-47-GMS
	:	
UNITED STATES POSTAL SERVICE,	:	
and NALC LOCAL 191,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this _____ day of _____ 2005, after considering
Defendant, United States Postal Service 's motion to dismiss, it is hereby

ORDERED that the date by which Motions for Summary Judgment are to filed, as set
forth in the Court's Scheduling Order of June 29, 2005, shall be vacated until such time as the
Court rules on the pending Motions to Dismiss.

BY THE COURT:

HONORABLE GREGORY M. SLEET
District Judge
United States District Court

Exhibit B

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 04-342-GMS
	:	
NATIONAL ASSOCIATION OF LETTER	:	
CARRIERS BRANCH 1977,	:	
	:	
Defendant.	:	

BRIAN K. REINBOLD,	:	
	:	
Plaintiff,	:	
	:	
v.	:	Civil Action No. 05-47-GMS
	:	
UNITED STATES POSTAL SERVICE,	:	
and NALC LOCAL 191,	:	
	:	
Defendant.	:	

ORDER

AND NOW, this _____ day of _____ 2005, after considering Defendant, United States Postal Service 's Motion to Dismiss or in the Alternative to Compel Rule 26(a) Disclosures by the Plaintiff, it is hereby

ORDERED that the Motion is GRANTED.

BY THE COURT:

HONORABLE GREGORY M. SLEET
District Judge
United States District Court

CERTIFICATE OF SERVICE

I hereby certify that on **November 8, 2005**, I electronically filed a **MOTION OF UNITED STATES POSTAL SERVICE TO DISMISS** with the Clerk of Court using CM/ECF. Notification of such filing will be electronically mailed to the following:

Susan E. Kaufman, Esquire
Heiman, Gouge & Kaufman, LLP
P.O. Box 1674
Wilmington, DE 19899
(302) 658-1800
skaufman@hgkde.com

and two copies of the foregoing **MOTION OF UNITED STATES POSTAL SERVICE TO DISMISS OR IN THE ALTERNATIVE TO COMPEL RULE 26(a) DISCLOSURES BY PLAINTIFF**, will be mailed, via First Class U.S. Mail to the following:

Brian K. Reinbold
P. O. Box 2565
Wilmington, DE 19805
Pro Se

COLM F. CONNOLLY
United States Attorney

By: /s/Patricia C. Hannigan
Patricia C. Hannigan
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